

§ 1.861-14

26 CFR Ch. I (4-1-20 Edition)

$$\$100,000 \times \frac{\$120,000}{\$160,000} = \$75,000$$

To Z:

$$\$100,000 \times \frac{\$40,000}{\$160,000} = \$25,000$$

Example 2. Corporate acquisitions. (i) *Facts.* The facts are the same as in example 1. On July 15, 1987, the XYZ group sells all the stock of Y to A. Having held the stock of Y for six months in 1987, the XZ group computes its transition relief for that year taking into account half of the transition attributes of Y. AY constitutes an affiliated group of corporations after the acquisition. Having held the stock of Y for six months in 1987, the AY group computes its transition relief for that year taking into account half of the transition attributes of Y. In 1987, the AY group attained a new lowest month-end debt level that yields an average lowest month-end debt level for 1987 of \$150,000.

(ii) *Transferee group.* The following analysis applies in determining transition relief for purposes of apportioning the interest expense of the transferee group for 1987. The AY group has the following transition attributes for 1987:

	Historic 3rd party debt	Increase
Company A:		
Nov. 16, 1985	\$100,000	.....
May 29, 1985 (5-year)	250,000	\$5,000
Dec. 31, 1983 (4-year)	245,000	10,000
Dec. 31, 1982	235,000	.....
Company Y (half-year amounts):		
Nov. 16, 1985	100,000	.....
May 29, 1985 (5-year)	85,000	60,000
Dec. 31, 1983 (4-year)	25,000	5,000
Dec. 31, 1982	20,000	.....
Pre-acquisition year paydown by another member of the trans- feror group that re- duced Y's five-year debt (one half of \$75,000)	37,500	.....

Because the November 16, 1985 amount of the AY group in 1987 is \$200,000 and because the 1987 average of historic month-end debt levels was \$150,000, the AY group has a paydown in the amount of \$50,000. In addition, the 1986 paydown by the XYZ group that was deemed to reduce Y debt is added to the paydown computed above, yielding a total paydown of \$87,500. This amount is prorated between members, eliminating the four and five year debt of the AY group. Note that Y is only a member of the AY group for half of the 1987 taxable year. In 1988, Y's entire transition indebtedness and a \$75,000 paydown must be taken into account in computing the amount

of interest expense eligible for transition relief.

(iii) *Transferor group.* The following analysis applies in determining transition relief for purposes of apportioning the interest expense of the transferor group for 1987. The XZ group has the transition attributes stated below for 1987. In 1987, the XZ group attained a new lowest month-end debt level that yields an average lowest month-end debt level for 1987 of \$250,000.

	Historic 3rd party debt	Increase
Company X:		
Nov. 16, 1985	\$100,000	.....
May 29, 1985 (5-year)	80,000	\$0
Dec. 31, 1983 (4-year)	80,000	10,000
Dec. 31, 1982	70,000	.....
Pre-disposition paydown that re- duced X's debt	0	.....
Company Y (half-year amounts):		
Nov. 16, 1985	100,000	.....
May 29, 1985 (5-year)	85,000	60,000
Dec. 31, 1983 (4-year)	25,000	5,000
Dec. 31, 1982	20,000	.....
Pre-disposition paydown that re- duced Y's debt	37,500	.....
Company Z:		
Nov. 16, 1985	300,000	.....
May 29, 1985 (5-year)	290,000	40,000
Dec. 31, 1983 (4-year)	250,000	100,000
Dec. 31, 1982	150,000	.....
Pre-disposition paydown that re- duced Z's debt	25,000	.....

Because the revised November 16, 1985 amount of the XZ group is \$500,000 and because the 1987 average of lowest historic month-end debt levels of the XZ group was \$250,000, the XZ group has a paydown in the amount of \$250,000. This paydown offsets the total five and four year debt of the XZ group. Had the 1987 paydown of the XZ group been an amount less than the five-year amount, the paydown would have been prorated based on Y's adjusted 5-year amount of \$22,500 and Z's adjusted 5-year amount of \$15,000.

[T.D. 8257, 54 FR 31820, Aug. 2, 1989]

§ 1.861-14 Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations.

(a)-(c) [Reserved]. For further guidance, see § 1.861-14T(a) through (c).

(d) *Definition of affiliated group*—(1) *General rule.* For purposes of this section, the term *affiliated group* has the same meaning as is given that term by section 1504. Section 1504(a) defines an affiliated group as one or more chains of includible corporations connected through 80-percent stock ownership

with a common parent corporation which is an includible corporation (as defined in section 1504(b)). In the case of a corporation that either becomes or ceases to be a member of the group during the course of the corporation's taxable year, only the expenses incurred by the group member during the period of membership shall be allocated and apportioned as if all members of the group were a single corporation. In this regard, the apportionment factor chosen shall relate only to the period of membership. For example, if apportionment on the basis of assets is chosen, the average amount of assets (tax book value or fair market value) for the taxable year shall be multiplied by a fraction, the numerator of which is the number of months of the corporation's taxable year during which the corporation was a member of the affiliated group, and the denominator of which is the number of months within the corporation's taxable year. If apportionment on the basis of gross income is chosen, only gross income generated during the period of membership shall be taken into account. If apportionment on the basis of units sold or sales receipts is chosen, only units sold or sales receipts during the period of membership shall be taken into account. Expenses incurred by the group member during its taxable year, but not during the period of membership, shall be allocated and apportioned without regard to other members of the group. This paragraph (d)(1) applies to taxable years beginning after December 31, 1989.

(2) [Reserved]

(d)(3)-(e)(5) [Reserved]. For further guidance, see § 1.861-14T(d)(3) through (e)(5).

(e)(6) *Charitable contribution expenses*—(i) *In general.* A deduction for a charitable contribution by a member of an affiliated group shall be allocated and apportioned under the rules of §§ 1.861-8(e)(12) and 1.861-14T(c)(1).

(ii) *Effective date.* (A) The rules of this paragraph shall apply to charitable contributions subject to § 1.861-8(e)(12)(i) that are made on or after July 28, 2004, and, for taxpayers applying the second sentence of § 1.861-8(e)(12)(iv)(A), to charitable contribu-

tions made during the taxable year ending on or after July 28, 2004.

(B) The rules of this paragraph shall apply to charitable contributions subject to § 1.861-8(e)(12)(ii) that are made on or after July 14, 2005, and, for taxpayers applying the second sentence of § 1.861-8(e)(12)(iv)(B), to charitable contributions made during the taxable year ending on or after July 14, 2005.

(f)-(j) [Reserved] For further guidance, see § 1.861-14T(f) through (j).

[T.D. 8916, 66 FR 274, Jan. 3, 2001, as amended by T.D. 9211, 70 FR 40663, July 14, 2005; T.D. 9882, 84 FR 69074, Dec. 17, 2019]

§ 1.861-14T Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations (temporary).

(a) *In general.* Section 1.861-11T provides special rules for allocating and apportioning interest expense of an affiliated group of corporations. The rules of this § 1.861-14T also relate to affiliated groups of corporations and implement section 864(e)(6), which requires affiliated group allocation and apportionment of expenses other than interest which are not directly allocable and apportionable to any specific income producing activity or property. In general, the rules of this section apply to taxable years beginning after December 31, 1986. Paragraph (b) of this section describes the scope of the application of the rule for the allocation and apportionment of such expenses of affiliated groups of corporations. Such rule is then set forth in paragraph (c) of this section. Paragraph (d) of this section contains the definition of the term "affiliated group" for purposes of this section. Paragraph (e) of this section describes the expenses subject to allocation and apportionment under the rules of this section. Paragraph (f) of this section provides rules concerning the affiliated group allocation and apportionment of such expenses in computing the combined taxable income of a FSC or DISC and its related supplier. Paragraph (g) of this section describes the treatment of losses caused by apportionment of such expenses in the case of an affiliated group